

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

# **HOUSE BILL 2040**

AN ACT

AMENDING TITLE 13, CHAPTER 23, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-2320; RELATING TO RESIDENTIAL MORTGAGE FRAUD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Title 13, chapter 23, Arizona Revised Statutes, is amended  
3 by adding section 13-2320, to read:

4           13-2320. Residential mortgage fraud: classification:  
5           definitions

6       A. A PERSON COMMITS RESIDENTIAL MORTGAGE FRAUD IF, WITH THE INTENT TO  
7 DEFRAUD, THE PERSON RECEIVES ANY PROCEEDS OR OTHER MONIES IN CONNECTION WITH  
8 A RESIDENTIAL MORTGAGE LOAN AND DOES ANY OF THE FOLLOWING:

9           1. KNOWINGLY MAKES ANY DELIBERATE MISSTATEMENT, MISREPRESENTATION OR  
10 MATERIAL OMISSION DURING THE MORTGAGE LENDING PROCESS THAT IS RELIED ON BY A  
11 MORTGAGE LENDER, BORROWER OR OTHER PARTY TO THE MORTGAGE LENDING PROCESS.

12           2. KNOWINGLY USES OR FACILITATES THE USE OF ANY DELIBERATE  
13 MISSTATEMENT, MISREPRESENTATION OR MATERIAL OMISSION DURING THE MORTGAGE  
14 LENDING PROCESS THAT IS RELIED ON BY A MORTGAGE LENDER, BORROWER OR OTHER  
15 PARTY TO THE MORTGAGE LENDING PROCESS.

16           3. FILES OR CAUSES TO BE FILED WITH THE OFFICE OF THE COUNTY RECORDER  
17 OF ANY COUNTY OF THIS STATE ANY RESIDENTIAL MORTGAGE LOAN DOCUMENT THAT THE  
18 PERSON KNOWS TO CONTAIN A DELIBERATE MISSTATEMENT, MISREPRESENTATION OR  
19 MATERIAL OMISSION.

20       B. AN OFFENSE INVOLVING RESIDENTIAL MORTGAGE FRAUD SHALL NOT BE BASED  
21 SOLELY ON INFORMATION THAT IS LAWFULLY DISCLOSED UNDER FEDERAL DISCLOSURE  
22 LAWS, REGULATIONS AND INTERPRETATIONS RELATED TO THE MORTGAGE LENDING  
23 PROCESS.

24       C. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 4 FELONY,  
25 EXCEPT THAT A PERSON WHO ENGAGES OR PARTICIPATES IN A PATTERN OF RESIDENTIAL  
26 MORTGAGE FRAUD OR WHO CONSPIRES TO ENGAGE OR PARTICIPATE IN A PATTERN OF  
27 RESIDENTIAL MORTGAGE FRAUD IS GUILTY OF A CLASS 2 FELONY.

28           D. FOR THE PURPOSES OF THIS SECTION:

29           1. "MORTGAGE LENDING PROCESS" MEANS THE PROCESS THROUGH WHICH A PERSON  
30 SEEKS OR OBTAINS A RESIDENTIAL MORTGAGE LOAN INCLUDING SOLICITATION,  
31 APPLICATION, ORIGINATION, NEGOTIATION OF TERMS, THIRD-PARTY PROVIDER  
32 SERVICES, UNDERWRITING, SIGNING, CLOSING AND FUNDING OF THE LOAN.

33           2. "PATTERN OF RESIDENTIAL MORTGAGE FRAUD" MEANS ONE OR MORE  
34 VIOLATIONS OF SUBSECTION A THAT INVOLVE TWO OR MORE RESIDENTIAL PROPERTIES  
35 AND THAT HAVE THE SAME OR SIMILAR INTENTS, RESULTS, ACCOMPLICES, VICTIMS OR  
36 METHODS OF COMMISSION OR ARE OTHERWISE INTERRELATED BY DISTINGUISHING  
37 CHARACTERISTICS.

38           3. "RESIDENTIAL MORTGAGE LOAN" MEANS A LOAN OR AGREEMENT TO EXTEND  
39 CREDIT TO A PERSON THAT IS SECURED BY A DEED TO SECURE DEBT, SECURITY DEED,  
40 MORTGAGE, SECURITY INTEREST, DEED OF TRUST OR OTHER DOCUMENT REPRESENTING A  
41 SECURITY INTEREST OR LIEN ON ANY INTEREST IN ONE-TO-FOUR FAMILY RESIDENTIAL  
42 PROPERTY AND INCLUDES THE RENEWAL OR REFINANCING OF ANY LOAN.